

E2SHB 1901 - S COMM AMD

By Committee on Health & Long-Term Care

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature has a long history of
4 supporting seniors where they live whether it is at home or in a
5 licensed care facility. It is widely recognized that the consumer of
6 senior services and long-term care of tomorrow will have different
7 demands and expectations for the type and manner of supportive and
8 health care services that they receive. Cost efficiencies must and can
9 be achieved within the health care system. Through the use of care
10 coaches, technology-supported health and wellness programs, and by
11 allowing greater flexibility for the specialization and use of nursing
12 facility beds, costly hospitalizations and rehospitalizations can be
13 reduced and the entry to licensed care settings can be delayed.

14 **Sec. 2.** RCW 18.20.020 and 2006 c 242 s 1 are each amended to read
15 as follows:

16 As used in this chapter:

17 (1) "Boarding home" means any home or other institution, however
18 named, which is advertised, announced, or maintained for the express or
19 implied purpose of providing housing, basic services, and assuming
20 general responsibility for the safety and well-being of the residents,
21 and may also provide domiciliary care, consistent with chapter 142,
22 Laws of 2004, to seven or more residents after July 1, 2000. However,
23 a boarding home that is licensed for three to six residents prior to or
24 on July 1, 2000, may maintain its boarding home license as long as it
25 is continually licensed as a boarding home. "Boarding home" shall not
26 include facilities certified as group training homes pursuant to RCW
27 71A.22.040, nor any home, institution or section thereof which is
28 otherwise licensed and regulated under the provisions of state law
29 providing specifically for the licensing and regulation of such home,

1 institution or section thereof. Nor shall it include any independent
2 senior housing, independent living units in continuing care retirement
3 communities, or other similar living situations including those
4 subsidized by the department of housing and urban development.

5 (2) "Basic services" means housekeeping services, meals, nutritious
6 snacks, laundry, and activities.

7 (3) "Person" means any individual, firm, partnership, corporation,
8 company, association, or joint stock association, and the legal
9 successor thereof.

10 (4) "Secretary" means the secretary of social and health services.

11 (5) "Department" means the state department of social and health
12 services.

13 (6) "Resident's representative" means a person designated
14 voluntarily by a competent resident, in writing, to act in the
15 resident's behalf concerning the care and services provided by the
16 boarding home and to receive information from the boarding home, if
17 there is no legal representative. The resident's competence shall be
18 determined using the criteria in RCW 11.88.010(1)(e). The resident's
19 representative may not be affiliated with the licensee, boarding home,
20 or management company, unless the affiliated person is a family member
21 of the resident. The resident's representative shall not have
22 authority to act on behalf of the resident once the resident is no
23 longer competent.

24 (7) "Domiciliary care" means: Assistance with activities of daily
25 living provided by the boarding home either directly or indirectly; or
26 health support services, if provided directly or indirectly by the
27 boarding home; or intermittent nursing services, if provided directly
28 or indirectly by the boarding home.

29 (8) "General responsibility for the safety and well-being of the
30 resident" means the provision of the following: Prescribed general low
31 sodium diets; prescribed general diabetic diets; prescribed mechanical
32 soft foods; emergency assistance; monitoring of the resident; arranging
33 health care appointments with outside health care providers and
34 reminding residents of such appointments as necessary; coordinating
35 health care services with outside health care providers consistent with
36 RCW 18.20.380; assisting the resident to obtain and maintain glasses,
37 hearing aids, dentures, canes, crutches, walkers, wheelchairs, and
38 assistive communication devices; observation of the resident for

1 changes in overall functioning; blood pressure checks as scheduled;
2 responding appropriately when there are observable or reported changes
3 in the resident's physical, mental, or emotional functioning; or
4 medication assistance as permitted under RCW 69.41.085 and as defined
5 in RCW 69.41.010.

6 (9) "Legal representative" means a person or persons identified in
7 RCW 7.70.065 who may act on behalf of the resident pursuant to the
8 scope of their legal authority. The legal representative shall not be
9 affiliated with the licensee, boarding home, or management company,
10 unless the affiliated person is a family member of the resident.

11 (10) "Nonresident individual" means a person who resides in
12 independent senior housing, independent living units in continuing care
13 retirement communities, or in other similar living environments or in
14 an unlicensed room located within a boarding home ((and may receive)).
15 Nothing in this chapter prohibits nonresidents from receiving one or
16 more of the services listed in RCW 18.20.030(5) or requires licensure
17 as a boarding home when one or more of the services listed in RCW
18 18.20.030(5) are provided to nonresidents. A nonresident individual
19 may not receive domiciliary care, as defined in this chapter, directly
20 or indirectly by the boarding home and may not receive the items and
21 services listed in subsection (8) of this section, except during the
22 time the person is receiving adult day services as defined in this
23 section.

24 (11) "Resident" means an individual who is not related by blood or
25 marriage to the operator of the boarding home, and by reason of age or
26 disability, chooses to reside in the boarding home and receives basic
27 services and one or more of the services listed under general
28 responsibility for the safety and well-being of the resident and may
29 receive domiciliary care or respite care provided directly or
30 indirectly by the boarding home and shall be permitted to receive
31 hospice care through an outside service provider when arranged by the
32 resident or the resident's legal representative under RCW 18.20.380.

33 (12) "Resident applicant" means an individual who is seeking
34 admission to a licensed boarding home and who has completed and signed
35 an application for admission, or such application for admission has
36 been completed and signed in their behalf by their legal representative
37 if any, and if not, then the designated representative if any.

1 (13) "Adult day services" means care and services provided to a
2 nonresident individual by the boarding home on the boarding home
3 premises, for a period of time not to exceed ten continuous hours, and
4 does not involve an overnight stay.

5 **Sec. 3.** RCW 18.20.030 and 2004 c 142 s 17 are each amended to read
6 as follows:

7 (1) After January 1, 1958, no person shall operate or maintain a
8 boarding home as defined in this chapter within this state without a
9 license under this chapter.

10 (2) A boarding home license is not required for the housing, or
11 services, that are customarily provided under landlord tenant
12 agreements governed by the residential landlord-tenant act, chapter
13 59.18 RCW, or when housing nonresident individuals who(~~(, without~~
14 ~~ongoing assistance from the boarding home, initiate and arrange for~~
15 ~~services provided by persons other than)) chose to participate in
16 programs or services under subsection (5) of this section, when offered
17 by the boarding home licensee or the licensee's contractor. This
18 subsection does not prohibit the licensee from furnishing written
19 information concerning available community resources to the nonresident
20 individual or the individual's family members or legal representatives.
21 The licensee may not require the use of any particular service
22 provider.~~

23 (3) Residents receiving domiciliary care, directly or indirectly by
24 the boarding home, are not considered nonresident individuals for the
25 purposes of this section.

26 (4) A boarding home license is required when any person other than
27 an outside service provider, under RCW 18.20.380, or family member:

28 (a) Assumes general responsibility for the safety and well-being of
29 a resident;

30 (b) Provides assistance with activities of daily living, either
31 directly or indirectly;

32 (c) Provides health support services, either directly or
33 indirectly; or

34 (d) Provides intermittent nursing services, either directly or
35 indirectly.

36 (5) A boarding home license is not required for one or more of the
37 following services that may, upon the request of the nonresident, be

1 provided to a nonresident individual: (a) Emergency assistance
2 provided on an intermittent or nonroutine basis (~~(to any nonresident~~
3 ~~individual)~~); (b) systems, including technology-based monitoring
4 devices, employed by independent senior housing, or independent living
5 units in continuing care retirement communities, to respond to the
6 potential need for emergency services (~~(for nonresident individuals)~~);
7 (c) (~~(infrequent, voluntary, and)~~) scheduled and nonscheduled blood
8 pressure checks (~~(for nonresident individuals)~~); (d) (~~(nurse referral)~~)
9 nursing assessment services (~~(provided at the request of a nonresident~~
10 ~~individual)~~) to determine whether referral to an outside health care
11 provider is recommended; (e) making and reminding the nonresident of
12 health care appointments (~~(at the request of nonresident individuals)~~);
13 (f) preadmission assessment(~~(, at the request of the nonresident~~
14 ~~individual,~~) for the purposes of transitioning to a licensed care
15 setting; (~~(or)~~) (g) medication assistance which may include reminding
16 or coaching the nonresident, opening the nonresident's medication
17 container, using an enabler, and handing prefilled insulin syringes to
18 the nonresident; (h) falls risk assessment; (i) nutrition management
19 and education services; (j) dental services; (k) wellness programs; (l)
20 prefilling insulin syringes when performed by a nurse licensed under
21 chapter 18.79 RCW; or (m) services customarily provided under landlord
22 tenant agreements governed by the residential landlord-tenant act,
23 chapter 59.18 RCW. (~~(The preceding services may not include continual~~
24 ~~care or supervision of a nonresident individual without a boarding home~~
25 ~~license.)~~)

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.20 RCW
27 to read as follows:

28 (1) A boarding home must provide each nonresident a disclosure
29 statement upon admission and at the time that additional services are
30 requested by a nonresident.

31 (2) The disclosure statement shall notify the nonresident that:

32 (a) The resident rights of chapter 70.129 RCW do not apply to
33 nonresidents;

34 (b) Licensing requirements for boarding homes under this chapter do
35 not apply to nonresident units; and

36 (c) The jurisdiction of the long-term care ombudsman does not apply
37 to nonresidents and nonresident units.

1 **Sec. 5.** RCW 18.52.030 and 2000 c 93 s 6 are each amended to read
2 as follows:

3 Nursing homes operating within this state shall be under the
4 active, overall administrative charge and supervision of an on-site
5 full-time administrator licensed as provided in this chapter. No
6 person acting in any capacity, unless the holder of a nursing home
7 administrator's license issued under this chapter, shall be charged
8 with the overall responsibility to make decisions or direct actions
9 involved in managing the internal operation of a nursing home, except
10 as specifically delegated in writing by the administrator to identify
11 a responsible person to act on the administrator's behalf when the
12 administrator is absent. The administrator shall review the decisions
13 upon the administrator's return and amend the decisions if necessary.
14 The board shall define by rule the parameters for on-site full-time
15 administrators in nursing homes with small resident populations
16 (~~and~~), nursing homes in rural areas, nursing homes with small
17 resident populations when the nursing home has converted some of its
18 licensed nursing facility bed capacity for use as assisted living or
19 enhanced assisted living services under chapter 74.39A RCW, or
20 separately licensed facilities collocated on the same campus.

21 **Sec. 6.** RCW 70.127.040 and 2003 c 275 s 3 and 2003 c 140 s 8 are
22 each reenacted and amended to read as follows:

23 The following are not subject to regulation for the purposes of
24 this chapter:

25 (1) A family member providing home health, hospice, or home care
26 services;

27 (2) A person who provides only meal services in an individual's
28 permanent or temporary residence;

29 (3) An individual providing home care through a direct agreement
30 with a recipient of care in an individual's permanent or temporary
31 residence;

32 (4) A person furnishing or delivering home medical supplies or
33 equipment that does not involve the provision of services beyond those
34 necessary to deliver, set up, and monitor the proper functioning of the
35 equipment and educate the user on its proper use;

36 (5) A person who provides services through a contract with a
37 licensed agency;

1 (6) An employee or volunteer of a licensed agency who provides
2 services only as an employee or volunteer;

3 (7) Facilities and institutions, including but not limited to
4 nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41
5 RCW, adult family homes under chapter 70.128 RCW, boarding homes under
6 chapter 18.20 RCW, developmental disability residential programs under
7 chapter 71A.12 RCW, other entities licensed under chapter 71.12 RCW, or
8 other licensed facilities and institutions, only when providing
9 services to persons residing within the facility or institution;

10 (8) Local and combined city-county health departments providing
11 services under chapters 70.05 and 70.08 RCW;

12 (9) An individual providing care to ill individuals, (~~(disabled)~~)
13 individuals with disabilities, or vulnerable individuals through a
14 contract with the department of social and health services;

15 (10) Nursing homes, hospitals, or other institutions, agencies,
16 organizations, or persons that contract with licensed home health,
17 hospice, or home care agencies for the delivery of services;

18 (11) In-home assessments of an ill individual, (~~(disabled)~~) an
19 individual with a disability, or a vulnerable individual that does not
20 result in regular ongoing care at home;

21 (12) Services conducted by and for the adherents of a church or
22 religious denomination that rely upon spiritual means alone through
23 prayer for healing in accordance with the tenets and practices of such
24 church or religious denomination and the bona fide religious beliefs
25 genuinely held by such adherents;

26 (13) A medicare-approved dialysis center operating a medicare-
27 approved home dialysis program;

28 (14) A person providing case management services. For the purposes
29 of this subsection, "case management" means the assessment,
30 coordination, authorization, planning, training, and monitoring of home
31 health, hospice, and home care, and does not include the direct
32 provision of care to an individual;

33 (15) Pharmacies licensed under RCW 18.64.043 that deliver
34 prescription drugs and durable medical equipment that does not involve
35 the use of professional services beyond those authorized to be
36 performed by licensed pharmacists pursuant to chapter 18.64 RCW and
37 those necessary to set up and monitor the proper functioning of the
38 equipment and educate the person on its proper use;

1 (16) A volunteer hospice complying with the requirements of RCW
2 70.127.050; (~~and~~)

3 (17) A person who provides home care services without compensation;
4 and

5 (18) Nursing homes that provide telephone or web-based transitional
6 care management services.

7 NEW SECTION. Sec. 7. A new section is added to chapter 74.42 RCW
8 to read as follows:

9 (1) Nursing facilities may provide telephone or web-based
10 transitional care management services to persons discharged from the
11 facility to home for up to thirty days postdischarge.

12 (2) When a nursing facility provides transitional care management
13 services, the facility must coordinate postdischarge care and service
14 needs with in-home agencies licensed under chapter 70.127 RCW, and
15 other authorized care providers, to promote evidence-based transition
16 care planning. In-home service agencies and other authorized care
17 providers, including the department, shall, when appropriate, determine
18 resident eligibility for postdischarge care and services and coordinate
19 with nursing facilities to plan a safe transition of the client to the
20 home setting. When a resident is discharged to home and is without in-
21 home care or services due to the resident's refusal of care or their
22 ineligibility for care, the nursing facility may provide telephone or
23 web-based transitional care management services. These services may
24 include care coordination services, review of the discharge plan,
25 instructions to promote compliance with the discharge plan, reminders
26 or assistance with scheduling follow-up appointments with other health
27 care professionals consistent with the discharge plan, and promotion of
28 self-management of the client's health condition. Web-based transition
29 care services may include patient education and the provision of
30 services described in this section. They are not intended to include
31 telehealth monitoring.

32 (3) If the nursing facility identifies concerns in client care that
33 result from telephone or web-based transitional care management
34 services, the nursing facility will notify the client's primary care
35 physician. The nursing facility will also discuss with the client
36 options for care or other services which may include in-home services
37 provided by agencies licensed under chapter 70.127 RCW.

1 NEW SECTION. **Sec. 8.** The department of social and health services
2 shall convene a work group of stakeholders to discuss and identify one
3 or more mechanisms to incentivize nursing facilities to close or to
4 eliminate licensed beds from active service. The department shall
5 adopt rules to implement the recommendations of the work group. By
6 September 1, 2011, the department shall report to the governor and the
7 legislature on the recommendations of the work group and the status of
8 the department's rule-making efforts and any statutory impediments to
9 the implementation of any of the recommendations.

10 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
11 conflict with federal requirements that are a prescribed condition to
12 the allocation of federal funds to the state, the conflicting part of
13 this act is inoperative solely to the extent of the conflict and with
14 respect to the agencies directly affected, and this finding does not
15 affect the operation of the remainder of this act in its application to
16 the agencies concerned. Rules adopted under this act must meet federal
17 requirements that are a necessary condition to the receipt of federal
18 funds by the state."

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By Committee on Health & Long-Term Care

NOT CONSIDERED 05/25/2011

19 On page 1, line 2 of the title, after "services;" strike the
20 remainder of the title and insert "amending RCW 18.20.020, 18.20.030,
21 and 18.52.030; reenacting and amending RCW 70.127.040; adding a new
22 section to chapter 18.20 RCW; adding a new section to chapter 74.42
23 RCW; and creating new sections."

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